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41 CFR Parts 301–11, 302–2, 302–3, *et al.*

Federal Travel Regulation; Temporary Duty (TDY) Travel Allowances (Taxes); Relocation Allowances (Taxes); Final Rule

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–11, 302–2, 302–3, 302–5, 302–6, 302–9, 302–15, and 302–17

[FTR Amendment 2014–01; FTR Case 2009–307; Docket No. 2009–0013; Sequence No. 1]

RIN 3090–AI95

Federal Travel Regulation; Temporary Duty (TDY) Travel Allowances (Taxes); Relocation Allowances (Taxes)

AGENCY: Office of Government-wide Policy (OGP), U.S. General Services Administration (GSA).

ACTION: Final rule.

SUMMARY: GSA is amending the Federal Travel Regulation (FTR) by incorporating recommendations of the Governmentwide Relocation Advisory Board (GRAB) concerning calculation of reimbursements for taxes on relocation expenses. In addition, this final rule alters the process for calculating reimbursements for taxes on extended temporary duty (TDY) benefits to correct errors and to align that process with the final changes to the relocation income tax process.

DATES: *Effective Date:* This rule is effective on September 22, 2014.

Applicability Date: This rule is applicable for employees who relocate beginning January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Miller, Office of Government-wide Policy (MT), U.S. General Services Administration, at 202–501–3822 or email at rodney.miller@gsa.gov for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FTR Amendment 2014–01, FTR case 2009–307.

SUPPLEMENTARY INFORMATION: This final rule also responds to comments received as a result of the proposed rule and updates regulatory references in accordance with GSA's Final Rule regarding "Relocation Allowances," published in the *Federal Register* on April 1, 2011.

A. Background

The GSA Office of Government-wide Policy seeks to incorporate best practices from Federal agencies and the private sector into the policies that GSA issues. To this end, GSA created the GRAB, consisting of Government and private industry relocation experts, to examine Government relocation policy. The GRAB was chartered under the

Federal Advisory Committee Act on July 9, 2004, and it submitted its "Findings and Recommendations" on September 15, 2005. The GRAB "Findings and Recommendations" and corresponding documents may be accessed at GSA's Web site at <http://www.gsa.gov/grab>. The GRAB made a number of recommendations with regard to taxes, and GSA has developed this final rule in response to those recommendations.

GSA worked with the Executive Relocation Steering Committee (ERSC), an interagency group chartered by GSA, to analyze the GRAB recommendations regarding taxes. The first product of the analysis by the ERSC was a set of four principles:

- Substantially all—Federal agencies are required by 5 U.S.C. 5724b to reimburse "substantially all" of the additional income taxes incurred by employees as a result of relocation and to reimburse "all" of the taxes imposed on any reimbursement for taxes.

- Fair and equitable—In personnel matters, the Government seeks to treat all employees fairly and equitably. A key piece of this is transparency. Everyone must be able to see and understand how their benefits are being computed. Another key piece is seeking to treat all civilian transferees equally, regardless of grade level.

- Relative simplicity—The tax process is necessarily complex because relocation has so many parts. However, it is important to keep this process as simple as possible, so that: (1) Agencies can and will perform all of the calculations accurately, (2) employees can verify the calculations, and (3) employees will be more likely to believe that they are being treated fairly and equitably.

- Minimizing cost—It is, of course, very important to balance the three objectives above against the overall cost of reimbursing employees for the taxes that they incur. It is important, therefore, to seek to limit reimbursement to "substantially all" of each transferee's tax liability, to the extent that this can be done without making the process overly complex.

B. Summary of Comments Received

GSA extends its thanks to all the interested parties that commented on the proposed rule published in the *Federal Register* at 76 FR 32340 on June 6, 2011.

In response to the proposed rule, GSA received comments from seven different entities (4 Federal agencies, 1 provider of support and technical assistance, 1 relocation services company, and 1 trade association).

Although the comments were generally supportive as to the implementation of the changes to the FTR, some requested clarification on specific aspects of implementation time frames, processes, and the agency calculations for the employee taxable reimbursements. All comments were carefully considered in the development of this final rule.

Two comments requested that GSA provide significant lead time for agencies and industry to update their policies, systems, and relocation expense management software in order to ensure a transferring employee's taxable reimbursements are correctly computed. It was further noted that to implement the final rule at the beginning of a tax year would assist with efficiencies and simplicity. GSA agrees, and therefore, this final rule will be effective at the beginning of the calendar year, January 1, 2015, for all relocations that report to duty on or after January 1, 2015, or for extended TDY trips that start on or after January 1, 2015, to allow for an entire tax year to be under the new rules.

One comment suggested in place of the two different terms, Relocation Income Tax Allowance (RITA) and Extended TDY Tax Reimbursement Allowance (ETTRA), that a single term of Income Tax Reimbursement Allowance (ITRA) be used. GSA has reviewed the two different terms, and because they distinguish between TDY and relocation tax implications, GSA will not implement any changes to the terms at this time.

Another comment requested that GSA consider either placing more severe constraints, or that GSA allow agencies to apply more severe constraints, on employees who submit their RITA or ETTRA claims beyond the required date as established by the agency. The comment also suggested that agencies be permitted to provide a warning upfront about timely payments instead of having to provide a 60-day written warning as specified in the new section 302–17.102. At this time, GSA has decided not to change the 60-day written warning as penalties, such as forfeiting the claim, are severe enough. If agencies can demonstrate that late filings are a serious problem, GSA will work with these agencies and the ERSC to review and modify the FTR as necessary.

GSA received several comments suggesting that the one-year Relocation Income Tax Allowance (RITA) process be made mandatory. Two comments supported revising the proposal to make the one-year RITA process mandatory or at a minimum, insert a sunset clause into the regulation that would require

agencies to transition to the one-year process within a specified period of time. However, two agencies said they favor continuing the use of the two-year RITA process at this time and the other two agencies did not provide a comment as to preference. Even with the GRAB's strongest recommendation, a realization of the working environment of the Federal agencies tempered GSA. For a one-year RITA process, a number of comments stated that a year-end cutoff was problematic or even necessary. Specifically, one agency noted the length of time it would take for anyone owed a payment during the cutoff period to receive that payment, and the prompt payment problems of a cutoff period longer than 30 days. Another agency felt that attempting to process its volume at year end would be difficult due to its size, with little overall net benefit to the employee or the agency. GSA uses an example with a 15-day cutoff period, but it was noted that agencies may need a longer cutoff period to accomplish the necessary calculations and payment of RITA before year end. Given that the one-year process is optional, this will allow agencies to reevaluate their current processes and look at alternative ways to implement a one-year process.

One alternative method suggested by a private sector commenter would be to continue paying relocation expenses along with the Withholding Tax Allowance WTA through the end of the year and accomplish the recalculations and RITA payments early in year two for those with reimbursements after some specified date. Because the process would not be completed within one year for those transferees with reimbursements after the cutoff date, the only part of the process remaining in year two would be calculation and payment of the RITA; this could presumably be accomplished before the employee had to file year one tax returns and pay additional taxes for that year, and in time for the agency to issue Forms W-2 that show the correct amount of withholding, and claim adjustments on its employment tax returns industry. While appreciated, GSA chose not to incorporate this suggestion into the Governmentwide regulation because it is not a one-size-fits-all approach, meaning smaller agencies may not need this proposed process and larger agencies might have to wait until fairly late in any new year to process all payments.

However, GSA agrees that agencies need to work towards moving away from the less efficient but accurate two-year process and move towards the more streamlined one-year process. The

one-year process is similar to the most common processes utilized in the private sector. The GSA decision to make the one-year RITA process optional will remain in this final rule. This is an option for agencies to consider as they develop changes in their operations to incorporate this final rule. The two-year process is slow and ties up funds for too long, but is more accurate because any mistakes in year one are corrected in year two. Employees need to have the ability to ask for a recalculation regardless of whether one or two years are used.

Several comments noted the lack of GSA guidance on state and local taxes. This final rule is not imposing any new requirements on agencies regarding knowledge of state and local tax laws. The current Part 302-17 requires that the employees find and provide the applicable state and local marginal tax rates. In the past, GSA published state and Puerto Rican tax tables, but those tables were estimates. The current process will be more accurate if the actual rates are used instead of the GSA-produced tax tables, which are based on \$25,000 income increments and therefore have inherent inaccuracies because different states have different tax brackets and rules. GSA is unaware of any agencies that currently have problems with local tax rules, including those for relocation, for their employees being paid through payroll and therefore should be able to understand the new tax processes related to relocation. The relationship between multiple states and localities as to tax payments are the employee's responsibility and would have to be known in order to certify their RITA claims. GSA is unaware as to which states or localities share reciprocity. Moreover, GSA does not certify the agreements between jurisdictions. Thus, there is no change from the regulations that are currently in place with regards to state and local taxes. Having GSA keep a record of reliable state and local tax guides as one commenter suggested is not a viable option due to staffing, expertise, and cost. For these reasons, GSA will not be able to do so.

Two comments suggesting having the WTA cover state and local taxes. While this is intriguing, it cannot be done because the tax burden is on the employee, and ultimately it is the employee's responsibility to pay, even if they are reimbursed for substantially all of the WTA through the process.

Two comments were received that stated that the proposed rule did not incorporate any way to handle alternative minimum tax, limited tax credits for those of certain income, and

the phase outs of various tax credits such as the housing credits from several years ago. GSA has no authority to provide tax advice. This is an item that employee's will need to discuss with personal tax advisors.

One commenter asked whether GSA was going to make any type of automated or electronic tax system available Government-wide. There are numerous private and interagency systems available to agencies that can provide this kind of service.

Comments were also received regarding recalculations. One of the philosophies behind this final rule is that employees are able to make tax decisions using all of the applicable information available. Thus, the process permits agencies to make the WTA optional.

The same philosophy results in a decision not to set a minimum such as \$500 for disputing amounts to use as a basis for recalculations. If the employee is unhappy they may request a recalculation. While GSA may consider implementing a minimum threshold in a future change, until a new process is set and tested, appeals for recalculation will be allowed at any amount. Another commenter suggested that the WTA rules should not encourage employees to calculate their own WTA because this encourages recalculation requests. This suggestion is rejected because the process must remain open and transparent, as the Government intends to work with its employees undergoing relocations.

Another comment received stated that the Government should only consider the employee's income, not the income of the spouse. It is GSA's position that the spouse's income must be considered, as well, since the Government is providing reimbursement for the relocation expenses of the employee's immediate family.

GSA received a number of administrative comments, including but not limited to, the supporting documentation that can be requested from an employee in calculating taxes and a suggestion to ensure that employees are made aware that RITA will be paid to relevant tax authorities, as opposed to the entire amount being reimbursed directly to the employee. GSA does not believe that the final rule will be strengthened by specifically adding these provisions; however, agencies can consider these topics in internal policies. Finally, other substantive comments received were adopted and are addressed within the text of this final rule.

C. Major Changes in This Final Rule

This final rule removes existing FTR Part 301–11, Subpart E, and it replaces FTR Part 301–11, Subpart F, which regulates taxes involved in extended TDY benefits. Finally this rule also completely replaces FTR Part 302–17.

The major changes in This final rule are:

Taxes on extended TDY benefits—The existing FTR Part 301–11, Subpart E, addresses only tax years 1993 and 1994 and is therefore obsolete. FTR Part 301–11, Subpart F, includes several substantial errors and does not agree with either the existing FTR Part 302–17 or this final rule. This final rule deletes FTR Part 301–11, Subpart E, and it replaces FTR Part 301–11, Subpart F in its entirety. This final rule also eliminates the lump sum process for reimbursing taxes on extended TDY benefits. This process is seldom used, and therefore, creates more confusion than benefit.

Question and answer format—This final rule puts FTR Part 302–17 into question and answer format to conform to the remainder of the FTR. GSA notes that the GRAB recommended that GSA move in the other direction, taking all of the FTR back to its old format. GSA has considered and rejected this GRAB recommendation. GSA continues to believe that the question and answer format is easier to read and understand for the large majority of users.

Eliminating use of two tables for Federal tax rates—GSA examined the tax tables for the past seven years and determined that the difference in tax rates from year to year is not large enough to justify formulas complex enough to account for year-to-year changes in Federal tax rates.

Standardizing usage of the terms “withholding tax allowance” (WTA) and “relocation income tax allowance” (RITA)—The existing FTR Part 302–17 is not entirely clear in its use of these two terms. The final rule seeks to clarify these terms and, to this end, changes the title of FTR Part 302–17 to “Taxes on Relocation Expenses.”

Fraudulent claims—The existing FTR Part 302–17 includes a paragraph, at section 302–17.10(c), about fraudulent claims made against the United States, especially in the context of the “Statement of Income and Tax Filing Status.” The statutes on fraudulent claims remain in effect and unchanged. However, these statutes apply to the entire relocation process, not just reimbursement for taxes on relocation expenses. Therefore, GSA has added a new section to FTR Part 302–2 to address fraudulent claims made at any

point during the relocation reimbursement process. This new section directly mirrors section 301–52.12 covering fraudulent claims with regards to TDY benefits.

New definitions—The final rule includes definitions for 13 terms in a glossary that is specific to FTR Part 302–17. Many of these terms are defined in the text of the existing FTR Part 302–17; the final rule gathers these 13 definitions into one place for easy reference in the new section 302–17.1.

Limitations and Federal income tax treatments—The final rule provides a table in section 302–17.8 that summarizes allowances, limitations, and tax treatment for each relocation reimbursement, allowance or direct payment to a vendor provided by the FTR.

Correcting the taxability of household goods transportation expenses—The existing section 302–17.3(b) states that the expenses for transportation of household goods (HHG) are taxable. This was true when the existing FTR Part 302–17 was published. However, in 1993 the IRC section on fringe benefits was amended to exclude from income certain moving expenses that are reimbursed and otherwise would be deductible. At the same time the IRC was amended to make fewer moving expenses deductible. One result was that the HHG shipment became a deductible expense. This inaccuracy is corrected in the final rule.

Correcting the withholding rate for supplemental wages—The withholding rate of 28 percent for supplemental wages used in the current FTR Part 301–11, Subpart F and section 302–17.7 is incorrect. The correct rate is 25 percent, and this is the rate used in this final rule, at section 302–17.24. This rate was scheduled to revert to 28 percent on January 1, 2011, but did not due to legislative action. If and when this rate changes, GSA will correct the new FTR Part 302–17 to reflect the rate change.

Allowing a one-year RITA process—The GRAB’s “Findings and Recommendations” clearly says that a one-year RITA process is the standard in the private sector because it is quicker and simpler. The GRAB strongly recommended that the Federal Government adopt a one-year process. In addition to its complexity, the existing two-year process for calculating taxes on relocation expenses creates a burden for many lower-grade transferees, because they are more likely to be required, in the second year, to repay an over-reimbursement in the first year. On the other hand, discussions with Federal agencies have made it clear that moving to a one-year process will

be challenging, and many are reluctant to move in that direction. The problems are mainly due to systems upgrades required to change the process so radically. In addition, as some have noted, the two-year process does result in a somewhat more accurate reflection of the actual tax impact on the employee. Therefore, this final rule offers the one-year RITA process to agencies as an option, alongside the existing two-year process. It also includes, at new section 302–17.103, a short discussion of the benefits and drawbacks of the one-year and two-year processes. See also new sections 302–17.31 and 302–17.32, and Subparts F and G in Part 302–17.

Making the WTA optional—A number of Federal agencies have made the WTA optional to the employee. Nothing in tax law or existing regulations prohibits this practice, and in some cases declining the WTA may be advantageous to the employee. This final rule explicitly gives the agencies permission to make the WTA optional and provides guidance and explanation for the both the agency and the employee.

Moving from earned income to taxable income—As the ERSC reviewed the GRAB’s recommendations, it recognized that using taxable income (instead of earned income like the existing FTR Part 302–17), would provide a simpler process and would bring the taxes reimbursement calculation closer to the target of “substantially all.” Moving to taxable income resolves several of the issues that the GRAB raised, including issues with capital gains and self-employment income. See new sections 302–17.40, 302–17.50, and Part 302–17.63 for information on how taxable income is used.

Eliminating the Government-unique tax tables—Moving to taxable income will also make it unnecessary for GSA to publish special tax tables each year. Transferees and agencies will be able to use the tables published by the U.S. Internal Revenue Service (IRS) and state and local tax authorities. With this change, agencies will be able to process claims as soon as the IRS issue the tables, rather than wait for GSA to develop unique tables based on them.

Failure to file the “Statement of Income and Tax Filing Status” in a timely manner—The existing section 302–17.7(e)(2) makes the entire WTA an excess payment if the employee fails to file the statement or the RITA claim in a timely manner. Because the WTA is an advance payment on the employee’s reimbursable income tax expenses, agencies are entitled to recover it if an employee fails to properly document

their income taxes. Therefore, this final rule continues these requirements on the employee and the agency, except in the case of an employee who declines the WTA. In this case, if the employee fails to file the "Statement of Income and Tax Filing Status" and/or the RITA claim in a timely manner, and in accordance with agency policy, this final rule allows the agency to close the file without paying the RITA. See new sections 302–17.53, 302–17.65, and 302–17.102.

Recalculation of RITA—The existing FTR Part 302–17 makes no provision for the employee to request recalculation. Most private sector companies allow employees to request recalculation, at least in some circumstances, though the percentage of private sector employees who request recalculation is small. The final rule makes it possible for Federal employees to request recalculation, provided they filed and/or amended their "Statement of Income and Tax Filing Status" in a timely manner. See the new section 302–17.33.

Agency responsibilities—The existing FTR Part 302–17 mentions some agency responsibilities in the context of other provisions. The final rule, in conformity with the rest of the FTR, lists the agency responsibilities together in the new Subpart H.

Information about state and local tax laws—GSA informally circulated a draft version of the proposed rule to various Federal agencies asking for input. Several agencies objected to what they thought were new or additional burdens stemming from requirements to know and utilize state and local tax laws. However, current section 302–17.10(b)(2) already places this requirement on agencies, stating ". . . it is incumbent upon the appropriate agency officials to become familiar with the state and local tax laws that affect their transferring employees." In short, this final rule is not imposing any new requirements on agencies regarding knowledge of state and local tax law. At the same time, this rule continues the current FTR Part 302–17 requirement that the employee find and provide the applicable state and local marginal tax rates.

D. Changes to the Current FTR

This final rule—

- Removes FTR Part 301–11, Subpart E.
- Revises FTR Part 301–11, Subpart F in its entirety.
- Adds new section 302–2.7.
- Revises one sentence in section 302–3.502(b).

- Updates references in Parts 302–2, 302–3, 302–5, 302–6, 302–9, and 302–15; and

- Revises FTR Part 302–17 in its entirety.

E. Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule has not been designated a "significant regulatory action" although not economically significant, under section 3(f) of Executive Order 12866. Accordingly, the rule has been reviewed by the Office of Management and Budget.

F. Regulatory Flexibility Act

This final rule will not have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* This final rule is also exempt from Administrative Procedure Act per 5 U.S.C. 553(a)(2), because it applies to agency management or personnel. However, this final rule is being published to provide transparency in the promulgation of Federal policies.

G. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

H. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Parts 301–11, 302–2, 302–3, 302–5, 302–6, 302–9, 302–15 and 302–17

Government employees, Income taxes, Relocation, Travel and transportation expenses.

Dated: July 28, 2014.

Dan Tangherlini,

Administrator of General Services.

For the reasons set forth in the preamble, under 5 U.S.C. 5701–5739, GSA is amending 41 CFR Parts 301–11, 302–2, 302–3, 302–5, 302–6, 302–9, 302–15 and 302–17 as set forth below:

PART 301–11—PER DIEM EXPENSES

- 1. The authority for Part 301–11 continues to read as follows:

Authority: 5 U.S.C. 5707.

Subpart E—[Removed and Reserved]

- 2. Remove and reserve Subpart E.
- 3. In subpart F, under the "General" heading, revise §§ 301–11.601 through 301–11.603 and add §§ 301–11.605 and 301–11.605 to read as follows:

Subpart F—Taxes on Extended TDY Benefits

General

Sec.

- 301–11.601 What is a taxable extended TDY assignment?
- 301–11.602 What factors should my agency consider in determining whether to authorize extended TDY?
- 301–11.603 What are the tax consequences of extended TDY?
- 301–11.604 What are the procedures for calculation and reimbursement of my WTA and ETTRA for taxable extended TDY?
- 301–11.605 When should I file my "Statement of Income and Tax Filing Status" for my taxable extended TDY assignment?

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Subpart F—Taxes on Extended TDY Benefits

General

§ 301–11.601 What is a taxable extended TDY assignment?

A taxable extended TDY assignment is a TDY assignment that continues for so long that, under the IRC the employee is no longer considered temporarily away from home during any period of employment if such period exceeds 1 year. You are no longer temporarily away from home as of the date that you and/or your agency recognize that your assignment will exceed one year. That is, as soon as you recognize that your assignment will exceed one year, you must notify your agency of that fact, and they must change your status immediately. Similarly, as soon as your agency recognizes that your assignment will exceed one year, your agency must notify you of that fact and change your

status. The effective date of this status change is the date on which it was recognized that you are no longer temporarily away from home as defined in the IRC.

(a) If you believe that your temporary duty assignment may exceed one year, you should carefully study IRS Publication 463, "Travel, Entertainment, Gift, and Car Expenses," to determine whether you are or will be considered "temporarily away from home" under this provision. If you are not or will not be considered temporarily away from home under this provision, then you are on taxable extended TDY.

(b) The IRC makes an exception for certain Federal personnel involved in investigation or prosecution of a Federal crime during any period for which such employee is certified by the Attorney General (or the designee thereof) as traveling on behalf of the United States in temporary duty status to investigate or prosecute, or provide support services for the investigation or prosecution of, a Federal crime.

§ 301–11.602 What factors should my agency consider in determining whether to authorize extended TDY?

Your agency should consider the factors discussed in § 302–3.502 of this subtitle in determining whether to authorize extended TDY.

§ 301–11.603 What are the tax consequences of extended TDY?

(a) If you are on a taxable extended TDY assignment, then all allowances and reimbursements for travel expenses, plus all travel expenses that the Government pays directly on your behalf in connection with your TDY assignment, are taxable income to you. This includes all allowances, reimbursements, and direct payments to vendors from the day that you or your agency recognized that your extended TDY assignment is expected to exceed one year, as explained in § 301–11.601.

(b) Your agency will reimburse you for substantially all of the income taxes that you incur as a result of your taxable extended TDY assignment. This reimbursement consists of two parts:

(1) The Withholding Tax Allowance (WTA). See Part 302–17, Subpart B of this Subtitle for information on the WTA; and

(2) The "Extended TDY Tax Reimbursement Allowance" (ETTRA) (in previous editions of the FTR this was known as the "Income Tax Reimbursement Allowance").

(c) The WTA and ETTRA for taxable extended TDY assignments cover only the TDY benefits described in FTR Chapter 301, Subchapter B. On an

extended TDY assignment, you are not eligible for the other benefits that you would have received if your agency had permanently relocated you.

§ 301–11.604 What are the procedures for calculation and reimbursement of my WTA and ETTRA for taxable extended TDY?+

(a) If your agency knows from the beginning of your TDY assignment that your assignment qualifies as taxable extended TDY, then your agency will withhold an amount as a WTA and pay that as withholding tax to the IRS until your extended TDY assignment ends. The WTA itself is taxable income to you, so your agency increases, or "grosses-up," the amount of the WTA, using a formula to reimburse you for the additional taxes on the WTA.

(b) If your agency realizes during a TDY assignment that you will incur taxes (because, for example, the TDY assignment has lasted, or is going to last, longer than originally intended), then your agency will compute the WTA for all taxable benefits received since the date it was recognized that you are no longer "temporarily away from home" (see § 302–11.601 for more information on the meaning of "temporarily away from home"). Your agency will pay that amount to the IRS, and then will begin paying WTA to the IRS until your extended TDY assignment ends.

(c) For your ETTRA, your agency will use the same one-year or two-year process that it has chosen to use for the relocation income tax allowance (RITA).

(d) See part 302–17 of this subtitle for additional information on the WTA and RITA processes.

Note to § 301–11.604: If your agency offers you the choice, the WTA is optional to you. See §§ 302–17.61 through 302–17.69.

§ 301–11.605 When should I file my "Statement of Income and Tax Filing Status" for my taxable extended TDY assignment?

You should file your "Statement of Income and Tax Filing Status" for your taxable extended TDY assignment at the beginning of your extended TDY assignment, or as soon as you or your agency realizes that your TDY assignment will incur taxes. You should provide the same information as the sample "Statements of Income and Tax Filing Status" shown in part 302–17, subpart F (one-year process) or subpart G (two-year process) of this subtitle.

PART 302–2—EMPLOYEE ELIGIBILITY REQUIREMENTS

■ 4. The authority for part 302–2 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a).

§ 302–2.3 [Amended]

■ 5. Amend § 302–2.3 by removing "§§ 302–2.7 through 302–2.11." and adding "§§ 302–2.8 through 302–2.12" in its place.

§§ 302–2.7 through 302–2.24 [Redesignated as §§ 302–2.8 through 302–2.25]

■ 6. Redesignate §§ 302–2.7 through 302–2.24 as §§ 302–2.8 through 302–2.25, respectively.

■ 7. Remove the undesignated center heading "Time Limits" that previously appeared before § 302–2.7 and add it before the newly-designated § 302–2.8.

■ 8. Add new § 302–2.7 to read as follows:

§ 302–2.7 What happens if I attempt to defraud the Government?

If you attempt to defraud the Government:

(a) You forfeit reimbursement pursuant to 28 U.S.C. 2514; and

(b) You may be subject under 18 U.S.C. 287 and 1001 to one, or both, of the following:

(1) A fine of not more than \$10,000, and/or

(2) Imprisonment for not more than 5 years.

§ 302–2.9 [Amended]

■ 9. Amend newly-redesignated § 302–2.9 by removing "§ 302–2.9 or § 302–2.10." and adding "§ 302–2.10 or § 302–2.11." in its place.

§ 302–2.11 [Amended]

■ 10. Amend newly-redesignated § 302–2.11 by removing "302–2.8" and adding "302–2.9" in its place wherever it appears.

■ 11. Remove the undesignated center heading "Service Agreements and Disclosure Statement" that previously appeared before § 302–2.12 and add it before newly-redesignated § 302–2.13.

§ 302–2.13 [Amended]

■ 12. Amend newly-redesignated § 302–2.13 by removing "§ 302–2.13, after you have relocated. A service agreement must also include the duplicate reimbursement disclosure statement specified in §§ 302–2.20, 302–2.21, and 302–2.100(g)." and adding "§ 302–2.14, after you have relocated. A service agreement must also include the duplicate reimbursement disclosure statement specified in §§ 302–2.21, 302–2.22, and 302–2.100(g)." in its place.

■ 13. Remove the undesignated center heading "Advancement of Funds" that previously appeared before § 302–2.20 and add it before newly-redesignated § 302–2.23.

§ 302-2.100 [Amended]

■ 14. Amend § 302-2.100, paragraph (g) by removing “see § 302-2.21.” and adding “see § 302-2.22” in its place.

§ 302-2.101 [Amended]

■ 15. Amend § 302-2.101, paragraph (b) by removing “§ 302-2.13.” and adding “§ 302-2.14” in its place.

PART 302-3—RELOCATION ALLOWANCE BY SPECIFIC TYPE

■ 16. The authority for part 302-3 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a).

■ 17. Amend § 302-3.502, in paragraph (b), by revising the second sentence to read as follows:

§ 302-3.502 What factors should we consider in determining whether to authorize a TCS for a long-term assignment?

* * * * *

(b) * * * The Withholding Tax Allowance and the Extended TDY Tax Reimbursement Allowance allow for the reimbursement of Federal, state, and local income taxes incurred as a result of taxable extended temporary duty assignments (see §§ 301-11.601–301-11.605 of this Subtitle). * * *

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PART 302-5—ALLOWANCE FOR HOUSEHUNTING TRIP EXPENSES

■ 18. The authority for part 302-5 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, as amended, 3 CFR, 1971-1975 Comp., p. 586.

§ 302-5.16 [Amended]

■ 19. Amend § 302-5.16 by removing “§§ 302-2.22, 302-2.23, and 302-2.24.” and adding “§§ 302-2.23, 302-2.24, and 302-2.25” in its place respectively.

PART 302-6—ALLOWANCE FOR TEMPORARY QUARTERS SUBSISTENCE EXPENSES

■ 20. The authority for part 302-6 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, as amended, 3 CFR, 1971-1975 Comp., p. 586.

§ 302-6.15 [Amended]

■ 21. Amend § 302-6.15 by removing “§§ 302-2.22, 302-2.23, and 302-2.24” and adding “§§ 302-2.23, 302-2.24, and 302-2.25” in its place respectively.

§ 302-6.103 [Amended]

■ 22. Amend § 302-6.103 by removing “§ 302-2.8.” and adding “§ 302-2.9” in its place.

PART 302-9—ALLOWANCES FOR TRANSPORTATION AND EMERGENCY OR TEMPORARY STORAGE OF A PRIVATELY OWNED VEHICLE

■ 23. The authority for part 302-9 continues to read as follows:

Authority: 5 U.S.C. 5737a; 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, as amended, 3 CFR, 1971-1975 Comp., p. 586.

§ 302-9.12 [Amended]

■ 24. Amend § 302-9.12 by removing “§ 302-2.22” and adding “§ 302-2.23” in its place.

PART 302-15—ALLOWANCE FOR PROPERTY MANAGEMENT SERVICES

■ 25. The authority for part 302-15 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, as amended, 3 CFR, 1971-1975 Comp., p. 586.

§ 302-15.12 [Amended]

■ 26. Amend § 302-15.12 by removing “§ 302-2.13” and adding “§ 302-2.14” in its place.

■ 27. Revise Part 302-17 to read as follows:

PART 302-17—TAXES ON RELOCATION EXPENSES

Sec.

302-17.0 General.

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302-17.1 What special terms apply to this Part?

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302-17.3 What is the Government’s objective in reimbursing the additional income taxes incurred as a result of a relocation?

302-17.4 Why is the reimbursement for *substantially all*, and not *exactly all*, of the additional income taxes incurred as a result of a relocation?

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302-17.6 Who is not eligible for the WTA and the RITA?

302-17.7 Is there any circumstance under which the WTA and the RITA are not paid even though I would otherwise be eligible?

302-17.8 What limitations and Federal income tax treatments apply to various relocation reimbursements?

302-17.9 Who is responsible for knowing which relocation expenses are taxable and which expenses are nontaxable?

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302-17.43 What local marginal tax rate(s) does my agency use?

302-17.44 What if I incur income tax liability to the Commonwealth of Puerto Rico?

302-17.45 What if I incur income tax liability to the Commonwealth of the Northern Mariana Islands or any other territory or possession of the United States?

Subpart E—Special Procedure If a State Treats an Expense as Taxable Even Though It Is Nontaxable Under the Federal IRC

302-17.46 What does my agency do if a state treats an expense as taxable even though it is nontaxable under the Federal IRC?

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302-17.50 What information should I provide to my agency to make the RITA calculation possible under the one-year process?

302-17.51 When should I file my “Statement of Income and Tax Filing Status” under the one-year process?

302-17.52 When should I file an amended “Statement of Income and Tax Filing Status” under the one-year process?

- 302–17.53 What happens if I do not file and amend the “Statement of Income and Tax Filing Status” in a timely manner?
- 302–17.54 How does my agency calculate my RITA under the one-year process?
- 302–17.55 What does my agency do once it has calculated my RITA under the one-year process?
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Subpart G—The Two-Year RITA Process

- 302–17.60 How are the terms “Year 1” and “Year 2” used in the two-year RITA process?
- 302–17.61 Is the WTA optional under the two-year process?
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- 302–17.65 What happens if I do not file the “Statement of Income and Tax Filing Status” in a timely manner?
- 302–17.66 How do I claim my RITA under the two-year process?
- 302–17.67 How does my agency calculate my RITA under the two-year process?
- 302–17.68 What does my agency do once it has calculated my RITA under the two-year process?
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- 302–17.100 May we use a relocation company to comply with the requirements of this part?
- 302–17.101 What are our responsibilities with regard to taxes on relocation expenses?
- 302–17.102 What happens if an employee fails to file and/or amend a “Statement of Income and Tax Filing Status” prior to the required date?
- 302–17.103 What are the advantages of choosing a 1-year or a 2-year RITA process?

Authority: 5 U.S.C. 5724b; 5 U.S.C. 5738; E.O. 11609, as amended, 3 CFR, 1971–1975 Comp., p. 586.

§ 302–17.0 General.

Use of the pronouns “I,” “you,” and their variants throughout this part refer to the employee, unless otherwise noted.

Subpart A—General

§ 302–17.1 What special terms apply to this Part?

The following definitions apply to this part:

Allowance means:

(1) Money paid to the employee to cover future expenses, such as the miscellaneous expense *allowance* (see

part 302–16 of this chapter for information about the miscellaneous expense *allowance*);

(2) Money paid to the employee to cover past expenses, such as the relocation income tax *allowance* (RITA) under the two-year tax process described in Part 302–17, Subpart G; or

(3) A limit established by statute or regulation, such as the 18,000 pound net weight *allowance* for household goods shipments (see Part 302–7 of this chapter for information about the 18,000 pound net weight *allowance*).

City means any unit of general local government as defined in 31 CFR 215.2(b).

Combined marginal tax rate (CMTR) means a single rate determined by combining the applicable marginal tax rates for Federal, state, and local income taxes, using the formula provided in § 302–17.40. (If you incur liability for income tax in the Commonwealth of Puerto Rico, see § 302–17.44.)

County means any unit of local general government as defined in 31 CFR 215.2(e).

Gross-up used as a noun in this part means:

(1) The process that your agency uses to estimate the additional income tax liability that you incur as a result of relocation benefits and taxes on those benefits; or

(2) The result of the *gross-up* process.

Note: The *gross-up* allows for the fact that every reimbursement of taxes is itself taxable. Therefore, the *gross-up* calculates the amount an agency must reimburse an employee to cover substantially all of the income taxes incurred as the result of a relocation.

Internal Revenue Code (IRC) means Title 26 of the United States Code, which governs Federal income taxes.

Local income tax means a tax imposed by a recognized city or county tax authority that is deductible for Federal income tax purposes as a *local income tax* under the IRC, at 26 U.S.C. 164(a)(3). (See the definitions for the terms *city* and *county* in this section.)

Marginal tax rate (MTR) means the tax rate that applies to the last increment of taxable income after taxable relocation benefits have been added to the employee’s income. For example, suppose a married employee who files jointly has a taxable income of \$120,000. According to the IRS 2011 Tax Rate Schedules, taxable income between \$69,000 and \$139,350 is taxed at the 25 percent tax rate; therefore, the \$120,000 taxable income of the employee and spouse is in this range, so they have a 25 percent *MTR*. If the employee receives \$30,000 of taxable relocation benefits, the taxable income

for the employee and spouse is now \$150,000, which is in the next highest tax bracket. In this example, the employee and spouse now have a Federal *MTR* of 28 percent once the taxable relocation benefits have been added to their income.

Reimbursement means money paid to you to cover expenses that you have already paid for out of your own funds.

Relocation benefits means all reimbursements and allowances that you receive, plus all direct payments that your agency makes on your behalf, in connection with your relocation.

Relocation income tax allowance (RITA) means the payment to the employee to cover the difference between the withholding tax allowance (WTA), if any, and the actual tax liability incurred by the employee as a result of their taxable relocation benefits; *RITA* is paid whenever the actual tax liability exceeds the WTA.

State means any one of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

State income tax means a tax imposed by a state tax authority that is deductible for Federal income tax purposes under the IRC, specifically 26 U.S.C. 164(a)(3).

Withholding tax allowance (WTA) means the amount paid to the Federal IRS by the agency as withholding of income taxes for any taxable relocation allowance, reimbursement, or direct payment to a vendor.

§ 302–17.2 Why does relocation affect personal income taxes?

When you are relocated from one permanent duty station to another, you are reimbursed by your employing agency for certain expenses. The IRC requires that you report many of these relocation benefits, including some that your agency pays on your behalf, as taxable income. When you receive taxable benefits, you must pay income tax on the amount or value of those benefits. However, 5 U.S.C. 5724b also requires that your agency reimburse you for substantially all of the additional Federal, state, and local income taxes you incur as a result of any taxable relocation benefits. A reimbursement for taxes is also a taxable benefit on which you must pay additional taxes.

§ 302–17.3 What is the Government’s objective in reimbursing the additional income taxes incurred as a result of a relocation?

The Government’s objective is to reimburse transferred employees for

substantially all (not exactly all—see § 302–17.4) of the additional Federal, state, and local income taxes incurred as a result of a relocation, including the taxes on the taxable relocation benefits and the taxes on the reimbursement for taxes.

§ 302–17.4 Why is the reimbursement for substantially all, and not exactly all, of the additional income taxes incurred as a result of a relocation?

Because of the complexity of the calculations, which involve not only Federal income tax but also the income tax rates of many states and localities, it is not reasonable for the Government to compute the exact impact of relocation on an affected employee’s taxes. Making a good faith effort to reimburse substantially all additional income taxes is sufficient. The statute where this appears, at 5 U.S.C. 5724b does not define substantially all. This Part provides the description through its provisions.

§ 302–17.5 Who is eligible for the WTA and the RITA?

The withholding tax allowance (WTA) and the relocation income tax allowance (RITA) are the two allowances through which the Government reimburses you for substantially all of the income taxes that you incur as a result of your relocation. You are eligible for the WTA and the

RITA if your agency is transferring you from one permanent duty station to another, in the interest of the Government, and your agency’s reimbursements to you for relocation expenses result in you being liable for additional taxes.

Note to § 302–17.5: If your agency offers you the choice, the WTA is optional to you. See 302–17.61 through 302–17.69.

§ 302–17.6 Who is not eligible for the WTA and the RITA?

You are not eligible for the WTA or the RITA if you are:
 (a) A new appointee;
 (b) Assigned under the Government Employees Training Act; or
 (c) Returning from an overseas assignment for the purpose of separation from Government service.

§ 302–17.7 Is there any circumstance under which the WTA and the RITA are not paid even though I would otherwise be eligible?

If you violate the 12-month service agreement under which you are relocated, your agency will not pay the WTA or the RITA to you, and you must repay any relocation benefits paid prior to the violation.

§ 302–17.8 What limitations and Federal income tax treatments apply to various relocation reimbursements?

(a) If you were moving yourself for a new job, with no help from your

employer, then you probably would be able to deduct some of your relocation expenses. However, if you are eligible for WTA and RITA under this part, your Federal agency reimburses you or pays directly for many relocation expenses that otherwise would be deductible. Since you could have deducted these expenses if you had paid them yourself, the benefits you receive from your agency for these “deductible” relocation expenses are nontaxable. Therefore, you do not report them as income and you cannot take them as deductions.

(b) However, many other relocation benefits are taxable income to you, the employee, because you could not have deducted them. You also may not deduct the additional taxes you incur, as a result of taxable benefits (except that you may deduct state and local income taxes on your Federal tax return). Your agency will reimburse you for most of these taxable expenses and for substantially all of the additional taxes that you incur as a result of the taxable benefits.

(c) The following table summarizes the FTR allowances, limitations, and tax treatment of each reimbursement, allowance, or direct payment to a vendor. See IRS Publication 521, Moving Expenses, and the cited FTR paragraphs for details.

TABLE TO § 302–17.8—FTR ALLOWANCES AND FEDERAL INCOME TAX TREATMENTS

Entitlement	Summary of FTR allowance	FTR Part or section	Tax treatments
Meals while en route to the new duty station.	The standard CONUS per diem for meals and incidental expenses.	§ 302–4.200	Taxable.
Lodging while en route to the new duty station.	The standard CONUS per diem for lodging expenses for the employee only.	§ 302–4.200	Nontaxable provided the cost is reasonable according to the IRC.
Transportation using your POV to your new duty station.	Actual cost or the rate established by the IRS for using a POV for relocation.	Part 302–4	Nontaxable.
Transportation to your new duty station using a common carrier (an airline, for example).	Actual cost	Part 302–4	Nontaxable.
Per diem and transportation for househunting trip.	Actual Expense Method: 10 days of per diem plus transportation expenses—must be itemized;	Part 302–5	Taxable.
	or Lump Sum Method: Locality rate times 5 (one person) or times 6.25 (employee and spouse) for up to 10 days—no itemization required.	Part 302–5	Taxable.
Temporary quarters subsistence expenses (TQSE).	Actual Expense Method: Maximum of 120 days; full per diem for only the first 30 days—itemization required;	§ 302–6.100	Taxable.
	or Lump Sum Method: Multiply number of days allowed by .75 times the locality rate (30 days maximum)—no itemization required.	§ 302–6.200	Taxable.

TABLE TO § 302-17.8—FTR ALLOWANCES AND FEDERAL INCOME TAX TREATMENTS—Continued

Entitlement	Summary of FTR allowance	FTR Part or section	Tax treatments
	<i>Note: Additional TQSE allowances for family members are less than the benefit for the employee occupying TQ alone.</i>		
Shipment of household goods (HHG) to include unaccompanied air baggage (UAB) and professional books, papers, and equipment (PBP&E).	Transportation of up to 18,000 pounds	Part 302-7	Transportation of goods from your former residence to your new residence is nontaxable.
Temporary storage of household goods in transit, as long as the expenses are incurred within any 30 calendar day period after the day your items are removed from your old residence and before they are delivered to the new residence.	Temporary storage of up to 30 days (However, see the section immediately below).	§ 302-7.9	Nontaxable.
Temporary storage of household goods beyond 30 days.	Temporary storage of 60 plus 90 days, NTE 150 days for CONUS relocations, and 90 days plus another 90 days, NTE 180 for OCONUS relocations.	§ 302-7.9	Taxable.
Extended storage of Household Goods (HHG).	CONUS—TCS (per agency policy) or isolated duty station only.	§ 302-3.414; Part 302-8, Subpart B.	Taxable.
	OCONUS—Agency policy	Part 302-8, Subparts C and D.	Nontaxable.
Transportation of privately-owned vehicle (POV).	CONUS—Agency discretion	Part 302-9, Subpart D.	Nontaxable.
	OCONUS—Agency discretion	Part 302-9, Subparts B & C.	Nontaxable.
Shipment of mobile home in lieu of HHG.	Limited to maximum allowance for HHG.	§ 302-10.3	Nontaxable.
Residence transactions:			
▪ Sale of home	Closing costs up to 10% of actual sales price.	§ 302-11.300(a) ...	Taxable.
▪ Purchase of home	Closing costs up to 5% of actual purchase price.	§ 302-11.300(b) ...	Taxable.
▪ Lease-breaking	Itemization required	§§ 302-11.430 & 431.	Taxable.
Payments to Relocation Service Contractors.	According to agency policy and contracts.	Part 302-12	Taxability determined on a case-by-case basis.
Home Marketing Incentive Payment	See internal agency policies and regulations.	Part 302-14	Taxable, but not eligible for WTA or RITA.
Property Management Services	See internal agency policies and regulations.	Part 302-15	Taxable.
Miscellaneous expenses	\$650 or \$1,300; or	§ 302-16.102	Taxable.
Withholding tax allowance	Maximum of 1 or 2 weeks basic pay ... 25 percent of reimbursements, allowances, and direct payments to vendors.	§ 302-16.103	Taxable.
Relocation income tax allowance	Based on income and tax filing status	Part 302-17, Subpart C.	Taxable.

§ 302-17.9 Who is responsible for knowing which relocation expenses are taxable and which expenses are nontaxable?

Both you and your agency must know which reimbursements and direct payments to vendors are taxable and which are nontaxable in your specific circumstances. When you submit a voucher for reimbursement, your agency must determine whether the reimbursement is taxable income at the Federal, state, and/or local level. Then, when you file your income tax returns, you must report the taxable allowances, reimbursements, and direct payments to vendors as income. Your agency is

ultimately responsible for calculating and reporting withholding accurately and you are ultimately responsible for filing your taxes correctly.

§ 302-17.10 Which expenses should I report on my state tax returns if I am required to file returns in two different states?

In most cases, your state tax return for the state you are leaving should reflect your reimbursement or allowance, if any, for househunting expenses and your reimbursement or direct payments to vendors for real estate expenses at the home you are leaving. All other taxable

expenses should be shown as income on the tax return you file in the state into which you have moved. However, you and your agency must carefully study the rules in both states and include everything that each state considers to be income on each of your state tax returns.

§ 302-17.11 When is an expense considered completed in a specific tax year?

A reimbursement, allowance, or direct payment to a vendor is considered completed in a specific tax year only if the money was actually disbursed to the

employee or vendor during the tax year in question.

§ 302–17.12 Where can I find additional information and guidance on WTA and RITA?

To find additional information and guidance on WTA and RITA, see:

- (a) IRS Publication 521, Moving Expenses; and
- (b) FTR Bulletins; GSA publishes additional information on RITA, including the illustrations and examples of various RITA computations, in FTR Bulletins which are updated as necessary. The current GSA FTR Bulletins may be found at <http://www.gsa.gov/bulletins>.

§ 302–17.13 How are taxes on extended TDY benefits and taxes on relocation allowances related?

(a) Taxes on extended TDY benefits are computed using exactly the same processes described in this Part for the WTA and RITA except that:

- (1) The tax process for extended TDY benefits uses the term “withholding tax allowance” (WTA) in exactly the same fashion as the process for taxes on relocation allowances; however, in place of the term “relocation income tax allowance,” the tax process for extended TDY benefits uses the term “extended TDY tax reimbursement allowance” (ETTRA); and

(2) All benefits are taxable under extended TDY, so the sections of this Part that discuss which benefits are taxable and which are not have no relevance to ETTRA.

(b) See Part 301–11, Subpart F of this Title for additional information about taxes on extended TDY benefits.

Subpart B—The Withholding Tax Allowance (WTA)

§ 302–17.20 What is the purpose of the WTA?

The purpose of the WTA is to protect you from having to use part of your relocation expense reimbursements to pay Federal income tax withholding; it does not cover state taxes, local taxes, Medicare taxes, or Social Security taxes (see § 302–17.22(c) and (d)).

Note to § 302–17.20: If your agency offers you the choice, the WTA is optional to you. See §§ 302–17.61 through 302–17.69.

§ 302–17.21 What relocation expenses does the WTA cover?

The WTA covers certain allowances, reimbursements, and/or direct payments to vendors, to the extent that each of them is taxable income. It does not cover any allowance, reimbursement, or direct payment to a vendor that is nontaxable; that is, your agency will not

give you a WTA for anything that is not considered taxable income to you (see Table 1 in § 302–17.8 for a summary of tax treatment). In particular, the WTA covers:

(a) En route meals and incidental expenses—Reimbursements for meals and incidental expenses while en route are taxable and, therefore, are covered by the WTA.

(b) One Househunting trip—Travel (including per diem and transportation) expenses for you (and your spouse) for one round trip to the new official station to seek permanent residence quarters. Househunting is covered regardless of whether it is reimbursed under the actual expense or lump sum method. (See Part 302–5 of this chapter.)

(c) Temporary quarters—Subsistence expenses for you and your immediate family during occupancy of temporary quarters. Temporary quarters are covered regardless of whether it is reimbursed under the actual expense or lump sum method. (See Part 302–6 of this chapter.)

(d) Extended storage expenses—Extended storage for a temporary change of station in CONUS or assignment to an isolated duty station in CONUS, but only if these expenses are allowed by Part 302–8 of this chapter and your agency’s policy.

(e) Real estate expenses—Expenses for the sale of the residence at your old official station and purchase of a home at your new official station. This can also include expenses for settling an unexpired lease (“breaking” a lease) at your old official station. (See Part 302–11 of this chapter. If you do not hold full title to the home you are selling or buying, see § 302–11.7 of this chapter.)

(f) Expenses paid by a relocation company to the extent such payments constitute taxable income to the employee. The extent to which such payments constitute taxable income varies according to the individual circumstances of your relocation, and by the state and locality in which you reside. (See IRS Publication 521, Moving Expenses, and appropriate state and local tax authorities for additional information.)

(g) Property Management Services—Payment for the services of a property manager for renting rather than selling a residence at your old official station. (See Part 302–15 of this chapter.)

(h) Miscellaneous expense allowance—Miscellaneous expenses for defraying certain relocation expenses not covered by other relocation benefits. (See Part 302–16 of this chapter.)

§ 302–17.22 What relocation expenses does the WTA not cover?

The WTA does not cover the following relocation expenses:

(a) Any reimbursement, allowance, or direct payment to a vendor that should not be reported as taxable income when you file your Federal tax return; this includes but is not limited to en route lodging and transportation, HHG transportation, and transportation of POVs.

(b) Reimbursed expenses for extended storage of household goods during an OCONUS assignment, if reimbursement is permitted under your agency’s policy.

(c) State and local withholding tax obligations. To the extent that your state or local tax authority requires periodic (such as quarterly) tax payments, you are responsible to pay these from your own funds. Your agency reimburses you for substantially all of these payments through the RITA process, but your agency does not provide a WTA for them. If required to by state or local law, your agency may withhold these from your reimbursement.

(d) Additional taxes due under the Federal Insurance Contributions Act including Social Security tax, if applicable, and Medicare tax. Current law does not allow Federal agencies to reimburse transferees for these employment taxes on relocation benefits. However, your agency will deduct for these taxes from your reimbursements for taxable items.

(e) Any reimbursement amount that exceeds the actual expense paid or incurred. For example, if your reimbursement for the movement of household goods is based on the commuted rate schedule but your actual relocation expenses are less than that, your tax liability for the difference is not covered by the WTA or RITA.

(f) Home marketing incentive payment. In accordance with FTR part 302–14, your agency may not provide you either a WTA or RITA for this incentive.

(g) Any recruitment, relocation, or retention incentive payment that you receive. Any withholding of taxes for such payments is outside the scope of this regulation. Rather, it is covered by regulations issued by the Office of Personnel Management, Treasury’s Financial Management Service, and the IRS.

(h) Any allowances, reimbursements, and/or direct payments to vendors not related to your relocation; for example, a reimbursement for office supplies would not be covered by the WTA, even if it occurred during your relocation.

§ 302–17.23 What are the procedures for my WTA?

(a) Your agency prepares a relocation travel authorization, which includes an estimate of the WTA and RITA, to obligate funds for your relocation.

(b) Your agency pays certain allowances to you. Your agency also pays vendors directly for other relocation expenses.

(c) Your agency instructs you as to whether to submit one voucher after you have completed your relocation or to submit vouchers at various points as your relocation progresses plus another when your relocation is completed.

(d) You submit your voucher(s) for reimbursement of certain relocation expenses.

(e) Your agency determines the extent to which each allowance, each item on your voucher(s), and each direct payment to a vendor is nontaxable or is taxable income to you under the IRC.

(f) For the taxable items, your agency calculates your WTA and any reimbursement(s) due to you in accordance with § 302–17.24. Your agency sets aside the amount of your WTA and pays the IRS as a withholding tax in accordance with IRS requirements.

§ 302–17.24 How does my agency compute my WTA?

(a) Your agency computes your WTA by applying the grossed-up withholding formula below each time your agency incurs a covered, taxable relocation expense, regardless of whether it is a reimbursement, allowance, or direct payment to a vendor.

(b) The law currently provides for a withholding rate of 25 percent for “supplemental wages” that are identified separately from regular wages (This rate has not always been 25 percent and may change in the future; GSA will revise the FTR to reflect any changes as quickly as possible, but users of this part should see IRS Publication 15, Employer’s Tax Guide, for the most current rate). Taxable payments for relocation expenses are “supplemental wages,” as defined in IRS Publication 15. However, you owe taxes on the WTA itself because, like most other relocation allowances, it is taxable income. To reimburse you for the taxes on the WTA itself, your agency computes the WTA by multiplying the reimbursement, allowance, or direct payment to a vendor by 0.3333 instead of 0.25. That is:

$$WTA = R / (1 - R) \times \text{Expense}$$

where R is the withholding rate for supplemental wages, or

$$WTA = 0.25 / (1 - 0.25) \times \text{Expense, or} \\ 0.3333 \times \text{Expense}$$

Example 1 to Part 302–17: Calculating the Withholding Tax Allowance (WTA)

Househunting Trip Actual Expense Claim—\$3,000
WTA = .3333 × \$3,000 = \$999.90
Temporary Quarters Lump Sum Allowance—\$5,000

WTA = .3333 × \$5,000 = \$1,666.50
Total WTA \$999.90 + \$1,666.50 = \$2,666.40

Note to § 302–17.24: Your agency must deduct withholding for Medicare and FICA (Social Security) from your reimbursement for expenses such as househunting, as the WTA does not cover such expenses.

Subpart C—The Relocation Income Tax Allowance (RITA)**§ 302–17.30 What is the purpose of the RITA?**

(a) The purpose of the RITA is to reimburse you for any taxes that you owe that were not adequately reimbursed by the WTA. As discussed in § 302–17.24, the WTA calculation is based on the 25 percent income tax withholding rate applicable to supplemental wages. This may be higher or lower than your actual tax rate. The RITA, on the other hand, is based on your marginal tax rate, determined by your actual taxable income and filing status, which allows your agency to reimburse you for *substantially all* of your Federal income taxes. The RITA also reimburses you for any additional state and local taxes that you incur as a result of your relocation, because they are not reimbursed in the WTA process.

(b) The WTA may be optional to you. See § 302–17.61 for a discussion of criteria for choosing whether or not to accept the WTA. See §§ 302–17.62 through 302–17.69 for procedures if you choose not to accept the WTA.

§ 302–17.31 What are the procedures for calculation and payment of my RITA?

The procedures for the calculation and payment of your RITA depend on whether your agency has chosen to use a one-year or two-year RITA process. See Subpart F for the one-year process and Subpart G for the two-year process.

§ 302–17.32 Who chooses the one-year or two-year process?

Your agency or a major component of your agency determines whether it will adopt a one-year or two-year RITA process. Your agency may use the one-year RITA process for one or more specific categories of employees and the two-year process for one or more other categories.

§ 302–17.33 May I ask my agency to recalculate my RITA?

(a) Yes, you may ask your agency to recalculate your RITA provided you

filed your “Statement of Income and Tax Filing Status,” and amended it, if necessary, in a timely manner. If, once you have completed all Federal, state, and local tax returns, you believe that your RITA should have been significantly different from the RITA that your agency calculated, you may ask your agency to recalculate your RITA. This is true for either the one-year or two-year process. With any request for recalculation, you must submit a statement explaining why you believe your RITA was incorrect.

(b) Please note that your agency may require that you also submit an amended “Statement of Income and Tax Filing Status” (if, for example, you inadvertently did not report some of your income in your original Statement), your actual tax returns, or both, as attachments to your request for recalculation.

Note to § 302–17.33: Please see § 302–17.55, if your agency uses a one-year RITA process, or § 302–17.68, if your agency uses a two-year RITA process, for more information about positive and negative RITA calculations.

Subpart D—The Combined Marginal Tax Rate (CMTR)**§ 302–17.40 How does my agency calculate my CMTR?**

(a) The CMTR is a key element that greatly enhances the accuracy of the calculation of your RITA. Your agency uses the information on your “Statement of Income and Tax Filing Status,” as amended, to determine your CMTR, as follows (see Subparts F and G of this Part for information about the “Statement of Income and Tax Filing Status”).

(b) The CMTR is, in essence, a combination of your Federal, state, and local tax rates. However, the CMTR cannot be calculated by merely adding the Federal, state, and local marginal tax rates together because of the deductibility of state and local income taxes from income on your Federal income tax return. The formula prescribed below for calculating the CMTR, therefore, is designed to adjust the state and local tax rates to compensate for their deductibility from income for Federal tax purposes.

(c) The formula for calculating the CMTR is:

$$CMTR = F + (1-F)S + (1-F)L$$

Where:

F = Your Federal marginal tax rate
S = Your state marginal tax rate, if any
L = Your local marginal tax rate, if any

Example 2 to Part 302–17: Calculating the Combined Marginal Tax Rate

Federal marginal tax rate—33%
 State marginal tax rate—6%
 Local marginal tax rate—3%
 $CMTR = 0.33 + (1.00 - 0.33)(.06) + (1.00 - 0.33)(0.03) = .3903$ or 39.03%

(d) Your agency finds the Federal marginal tax rate by comparing your taxable income, as shown in your “Statement of Income and Filing Status,” to the Federal tax tables in the current year’s Form 1040—ES instructions (see §§ 302–17.50—302–17.53 and §§ 302–17.63—302–17.65 for additional information on the “Statement of Income and Tax Filing Status”).

(e) Your agency finds the state and local marginal tax rates that apply to

you (if any) by comparing your taxable income to the most current state and/or local tax tables provided by the states and localities. Every Federal payroll office and every provider of tax calculation software has these tables readily available, and the tables are also available on the Web sites of the various state and local taxing authorities.

§ 302–17.41 Is there any difference in the procedures for calculating the CMTR, depending on whether my agency chooses the one-year or two-year RITA process?

No. The procedures for calculating the CMTR are the same for the one-year and two-year RITA processes.

§ 302–17.42 Which state marginal tax rate(s) does my agency use to calculate the CMTR if I incur tax liability in more than one state, and how does this affect my RITA and my state tax return(s)?

If two or more states that are involved in your relocation impose an income tax on relocation benefits, then your relocation benefits may be taxed by both states. Most commonly, your old and new duty stations are in the two states involved. The following table lays out the possibilities:

If:	But:	Your agency will use the following as the state marginal tax rate in the CMTR:	Your RITA will include an appropriate allowance for:	Your action:
Only one involved state has a state income tax.		The marginal tax rate of the one state that taxes income.	Taxes you incur in that state.	You pay the taxes required by the state that taxes income.
Each involved state taxes a different set of your relocation benefits, with no overlap.		The average of the marginal tax rates for each state involved.	Taxes you incur in all involved states.	You file tax returns in each involved state and pay the applicable taxes.
Two or more involved states tax some of your same relocation benefits.	All involved states <i>allow</i> you to adjust or take a credit for income taxes paid to other states.	The marginal tax rate of the state that has the highest state income tax rate.	Taxes you incur in all involved states.	You file tax returns in each involved state, take the appropriate credits and/or adjustments, and pay the applicable taxes.
Two or more involved states tax some of the same relocation benefits.	One or more involved states <i>does not allow</i> you to adjust or take a credit for income taxes paid to other states.	The sum of all applicable state marginal tax rates.	Taxes you incur in all involved states.	You file tax returns in each involved state, and pay the applicable taxes. This may result in paying taxes in more than one state on the same relocation benefits.

§ 302–17.43 What local marginal tax rate(s) does my agency use?

(a) If you incur local tax liability, you provide the applicable marginal tax rate(s) on your “Statement of Income and Tax Filing Status”. Your agency validates the applicable local marginal tax rate(s) and uses it (them) in the CMTR formula.

(b) If you incur local income tax liability in more than one locality, then your agency should follow the rules described for state income taxes in § 302–17.42 to calculate the local marginal tax rate that will be used in the CMTR formula and to compute your RITA, and you should follow the rules in § 302–17.42 to determine your actions.

(c) If a locality in which you incur income tax liability publishes its tax rates in terms of a percentage of your Federal or state taxes, then your agency must convert that tax rate to a percentage of your income to use it in

computing your CMTR. This is accomplished by multiplying the applicable Federal or state tax rate by the applicable local tax rate. For example, if the state marginal tax rate is 6 percent and the local tax rate is 50 percent of state income tax liability, the local marginal tax rate stated as a percentage of taxable income would be 3 percent.

§ 302–17.44 What if I incur income tax liability to the Commonwealth of Puerto Rico?

A Federal employee who is relocated to or from a point, or between points, in the Commonwealth of Puerto Rico may be subject to income tax by both the Federal Government and the government of Puerto Rico. However, under current Puerto Rico law, an employee receives a credit on his/her Puerto Rico income tax for the amount of taxes paid to the Federal Government. Therefore:

(a) If the applicable Puerto Rico marginal tax rate, as shown in the tables provided by the Commonwealth of Puerto Rico, is *equal to or lower* than the applicable Federal marginal tax rate, then your agency uses the Federal marginal tax rates and the formula in § 302–17.40(c) in calculating your CMTR.

(b) If the applicable Puerto Rico marginal tax rate, as shown in the tables provided by the Commonwealth of Puerto Rico, is *higher* than the applicable Federal marginal tax rate, and if all of the states involved either have no income tax or *allow* an adjustment or credit for income taxes paid to the other state(s) and Puerto Rico, then your agency uses the rate for Puerto Rico in place of the Federal marginal tax rate in the formula in § 302–17.40(c).

(c) If the applicable Puerto Rico marginal tax rate, as shown in the tables provided by the Commonwealth of

Puerto Rico, is *higher* than the applicable Federal marginal tax rate and one or more of the state(s) involved *does not allow* an adjustment or credit for income taxes paid to the other state(s) and/or Puerto Rico, then your agency uses the formula below:

$$CMTR = P + S + L$$

Where:

P = Your Puerto Rico marginal tax rate

S = Your state marginal tax rate, if any

L = Your local marginal tax rate, if any

§ 302-17.45 What if I incur income tax liability to the Commonwealth of the Northern Mariana Islands or any other territory or possession of the United States?

If you are relocated to, from, or within the Commonwealth of the Northern

Mariana Islands or any territory or possession of the United States that is covered by the definition in § 302-17.1, your agency will have to determine the tax rules of that locality and then include those taxes in your RITA calculation, as applicable.

Subpart E—Special Procedure If a State Treats an Expense as Taxable Even Though It Is Nontaxable Under the Federal IRC

§ 302-17.46 What does my agency do if a state treats an expense as taxable even though it is nontaxable under the Federal IRC?

If one or more of the states where you have incurred tax liability for relocation expenses treats one or more relocation

expenses as taxable, even though it (they) are nontaxable under Federal tax rules, you may be required to pay additional state income tax when you file tax returns with those states. In this case, your agency calculates a state gross-up to cover the additional tax liability resulting from the covered relocation expense reimbursement(s) that are nontaxable under Federal, but not state tax rules. Your agency calculates the state gross-up and then adds that amount to your RITA. Your agency will use this formula to calculate the state gross-up:

$$\text{State Gross-up} = S \times \left(\frac{1-F}{1-C} \right) \times N$$

F = Federal Marginal Tax Rate

S = State Marginal Tax Rate

C = CMTR

N = Dollar amount of covered relocation expenses that are nontaxable under Federal tax rules but are taxable under state tax rules

All information, except “N,” can be found in previous calculations (if moving to, from, or within Puerto Rico, follow the rules in 302-17.44 to determine when to substitute “P” for “F”).

“N” is determined as follows:

1. Take the dollar amount of reimbursements, allowances, and direct payments to vendors treated as nontaxable under Federal tax rules.

2. Subtract the dollar amount of reimbursements, allowances, and direct payments to vendors treated as nontaxable by the state.

3. The difference represents “N.”

Note to § 302-17.46: This calculation is the same, regardless of whether your agency has

chosen to use the one-year or two-year RITA process.

Subpart F—The One-Year RITA Process

§ 302-17.50 What information should I provide to my agency to make the RITA calculation possible under the one-year process?

You should provide the information required in the “Statement of Income and Tax Filing Status” as follows:

STATEMENT OF INCOME AND TAX FILING STATUS—ONE-YEAR PROCESS

The following information, which my agency will use in calculating the RITA to which I am entitled, was shown on the Federal, state, and local income tax returns that I (or my spouse and I) filed for the 20 _____ tax year (this should be the most recent year in which you filed).

Federal Filing status:

- Single
- Married Filing Jointly
- Married Filing Separately
- Head of Household
- Qualifying Widow(er)

(a) Taxable income as shown on my (our) IRS Form 1040: \$ _____

Significant future changes in income (including cost of living raises) that you can foresee for the current year:
 ___ Increase ___ Decrease ___ No Foreseeable Changes

(b) Approximate net amount of this (these) change(s): \$ _____

(c) Predicted taxable income for the current tax year 20 _____ = Sum of (a) and (b) = \$ _____

State you are moving out of: _____

Filing status for the state moving out of: _____

Marginal Tax Rate: _____%

State you are moving into: _____

Filing status for the state moving into: _____

Marginal Tax Rate: _____%

Locality you are moving out of: _____

Filing status for the locality moving out of: _____

Marginal Tax Rate: _____%

Locality you are moving into: _____

Filing status for the locality moving into: _____

Marginal Tax Rate: _____%

The above information is true and accurate to the best of my (our) knowledge. I (we) agree to notify the appropriate agency official of any significant changes to the above so that appropriate adjustments to the RITA can be made.

STATEMENT OF INCOME AND TAX FILING STATUS—ONE-YEAR PROCESS—Continued

Employee's signature _____

Date _____

Spouse's signature (if filing jointly) _____

Date _____

§ 302–17.51 When should I file my “Statement of Income and Tax Filing Status” under the one-year process?

For the one-year process, you should file this form as soon as you receive your relocation orders, or as soon as you file your tax returns for the most recent tax year, whichever occurs later.

§ 302–17.52 When should I file an amended “Statement of Income and Tax Filing Status” under the one-year process?

You should submit an amended “Statement of Income and Tax Filing Status” to your agency under the one-year process whenever the information on it changes, and you should continue to amend it until you have received the last W–2 from your agency in connection with a specific relocation. In particular, you should file an amended version of this statement whenever:

- (a) Your filing status changes;
- (b) Your income changes enough that your income, including WTA and RITA, might put you into a different tax bracket; or
- (c) You have taxable relocation expenses in a second or third calendar year.

Note to § 302–17.52: Your agency will not be able to use your original or amended “Statement of Income and Tax Filing Status”

if you file it after the cut-off date established by your agency in accordance with § 302–17.54(b).

§ 302–17.53 What happens if I do not file and amend the “Statement of Income and Tax Filing Status” in a timely manner?

If you don't file the “Statement of Income and Tax Filing Status” and/or amend it when necessary, your agency will switch to the 2-year process, and because the WTA is an advance of your income tax expenses, you will be liable to repay the full amount of the WTA that your agency has paid to the IRS. See Subpart G of this Part.

§ 302–17.54 How does my agency calculate my RITA under the one-year process?

(a) Your agency provides allowances to you, reimburses you for vouchers that you submit, and pays certain relocation vendors directly, all during the calendar year as described in Subpart B of this Part. Some of these reimbursements, allowances, and direct payments to vendors are taxable income to you, the employee, as described in subpart A of this part. Your agency computes a WTA and reports the WTA to the IRS as taxes withheld for you for each of these taxable reimbursements, allowances,

and direct payments to vendors. The WTA may be optional to you. However, if your agency is using a one-year RITA process, there is no advantage to you in choosing not to receive the WTA, because your agency will adjust the WTA payment to the IRS. See § 302–17.55(a)(1).

(b) Your agency establishes a cutoff date (for example, December 1), after which it will not issue reimbursements or allowances to you or make direct payments to relocation vendors for the rest of the calendar year.

(c) If the information on your “Statement of Income and Tax Filing Status” changes after you have submitted the initial version, you must submit an amended “Statement of Income and Tax Filing Status” no later than your agency's cutoff date.

(d) During the period between the cutoff date and the end of the calendar year, your agency calculates your RITA.

(e) Your RITA is itself taxable income to you. To account for taxes on the RITA, your agency will gross-up your RITA by using a gross-up formula that multiplies the grossed-up CMTR by the total of all covered taxable relocation benefits, and then subtracts your grossed-up WTA from that total. That is:

$$RITA = \left(\left(\frac{C}{1-C} \right) \times R \right) - Y$$

Where

C = CMTR

R = Reimbursements, allowances, and direct payments to vendors covered by WTA

Y = Total grossed-up WTA paid during the current year.

§ 302–17.55 What does my agency do once it has calculated my RITA under the one-year process?

(a) Your RITA is likely to be different from the sum of the WTA computed and reported during the year, because the WTA is calculated using a flat rate, established by the IRC, while the RITA is calculated using the CMTR. Therefore:

(1) If the calculation above results in a negative value (that is, if your agency's calculation shows that it withheld and reported too much money as WTA),

then your agency will send an adjustment to the IRS using Form 941. In this case, your agency does not make a RITA payment to you because you do not need additional funds to pay your taxes. That is, everything you need to pay substantially all of your taxes was included in the adjusted WTA, and that is the amount that will appear on your Form W–2.

(2) If the calculation above results in a positive value (that is if your agency's calculation shows that it did not withhold enough money for your income taxes), then your agency will pay your RITA to you before the end of the calendar year and report it to the IRS as part of your income for that year.

(b) Shortly after the end of the calendar year, your agency will provide

one or two W–2 Forms to you. At your agency's discretion, you may receive one W–2 that includes all of your taxable relocation expenses, WTA, and RITA (if any), along with your payroll wages, or you may receive one W–2 for your payroll wages and a separate one for your taxable relocation expenses, WTA, and RITA.

§ 302–17.56 What do I do, under the one-year process, once my agency has provided my W–2(s)?

(a) You must use all W–2(s) that you have received to file your tax returns. On those returns, you must include all taxable relocation expenses shown on your W–2(s) as income, including your WTA and RITA (if any). Please note that you must also include all WTA as

withholding, in addition to the standard withholding from your payroll wages.

(b) If you finished your relocation within one calendar year, and your agency paid all of your relocation reimbursements, allowances, and direct payments to vendors in the same calendar year, before the cutoff date, then your tax returns for that calendar year are the end of your relocation tax process. If, on the other hand, your agency reimburses you for relocation expenses, or pays allowances or relocation vendors on your behalf, during a second (and possibly a third) calendar year, then you and your agency repeat the process above for each of those years.

Subpart G—The Two-Year RITA Process

§ 302–17.60 How are the terms “Year 1” and “Year 2” used in the two-year RITA process?

(a) Year 1 is the calendar year in which the agency reimburses you for a

Allowance computed without WTA:

	\$1,300.00	Miscellaneous Expenses Allowance.
Minus	325.00	Federal Withholding Tax (25%).
Minus	18.85	Medicare Withholding Tax (1.45%).
Minus	80.60	FICA (Social Security) Tax (6.20%).
Equals	875.55	Amount due to the transferee.

Allowance computed with WTA:

	1,300.00	Miscellaneous Expenses Allowance.
Plus	433.33	Withholding Tax Allowance (25% of \$1733.33).
Equals	1,733.33	Net allowance with WTA.
Minus	433.33	Federal Withholding Tax (25%).
Minus	25.13	Medicare Withholding Tax (1.45%).
Minus	107.47	FICA (Social Security) Tax (6.20%).
Equals	1,167.40	Amount due to the transferee.

(2) If you expect that your marginal Federal tax rate will be less than 25 percent, you may want to decline the WTA to avoid or limit possible overpayment of the WTA, the so-called “negative RITA” situation. In a “negative RITA” situation, you must repay some of the WTA in Year 2. However, even if your marginal Federal tax rate will be less than 25 percent, you may want to accept the WTA so that your initial reimbursement is larger. Example 3 shows the relative reimbursements you would receive by accepting and declining the WTA, in the case of a hypothetical \$1,300 Miscellaneous Expense Allowance.

§ 302–17.62 What information do I put on my tax returns for Year 1 under the two-year process?

(a) Your agency provides allowances to you, reimburses you for vouchers that you submit, and pays certain relocation vendors directly, all during the same calendar year, as described in Subpart B

specific expense, provides an allowance, or pays a vendor directly. If your reimbursements, allowances, and/or direct payments to vendors occur in more than one calendar year, you will have more than one Year 1.

(b) Year 2 is the calendar year in which you submit your RITA claim and your agency pays your RITA to you.

(c) In most cases:

(1) For every Year 1 you will have a corresponding Year 2;

(2) Every Year 2 immediately follows a Year 1; and

(3) Year 2 is the year in which you file a tax return reflecting your remaining tax liability for taxable reimbursement(s), allowance(s), and/or direct payments to vendors in each Year 1.

(d) The table below offers a graphic explanation of Year 1 and Year 2, assuming that you begin your relocation in 2012 and incurred additional approved expenses in 2013.

January 2012	2013	2014
First Year 1 ..	Second Year 1 and Year 2 for 2012.	Year 2 for 2013.

§ 302–17.61 Is the WTA optional under the two-year process?

(a) Yes. If your agency makes the WTA optional to you, you may choose to not receive the WTA.

(b) WTA is paid at a rate of 25 percent. When deciding whether or not to receive the WTA, you should consider the following:

(1) If you expect that your marginal Federal tax rate will be 25 percent or higher for the calendar year for which you received the majority of your relocation reimbursements, you may want to elect to receive the WTA, because your initial reimbursements will be higher, as shown in the following Example 3 to part 302–17).

Example 3 to Part 302–17: Claims Paid with and without WTA.

of this Part. Some of these reimbursements, allowances, and direct payments to vendors are taxable income to you, the employee. Your agency computes a WTA and reports that withholding to the IRS for each of these that is taxable. This is Year 1 of the two-year process.

(b) If your agency makes the WTA optional to you and you have chosen not to receive the WTA, then your agency computes withholding tax for each taxable reimbursement, allowance, and direct payment, and reports that withholding to the IRS. See Example 3 to Part 302–17 in this section.

(c) Shortly after the end of the calendar year, your agency provides one or more W–2 forms to you. At its discretion, your agency may include all of your taxable relocation expenses and WTA (if any) in one W–2, along with your regular payroll wages, or it may provide you one W–2 for your regular payroll wages and a separate W–2 for

your taxable relocation expenses and WTA (if any).

(d) At approximately the same time as your agency provides your W–2(s), it also may provide you an itemized list of all relocation benefits and the WTA (if any) for each benefit. You should use this statement to verify that your agency has included all covered taxable items in its calculations and to check your agency’s calculations.

(e) You must submit all W–2s that you have received with your Year 1 tax returns. On those returns, you must include all taxable relocation expenses during the previous year as income. Furthermore, you must include the WTA (if any) as tax payments that your agency made for you during the previous year, in addition to the regular withholding of payroll taxes from your salary.

§ 302–17.63 What information should I provide to my agency to make the RITA calculation possible under the two-year process?

You should provide the information required in the “Statement of Income

and Tax Filing Status” shown below. This information should be taken from the income tax returns you filed for Year 1.

STATEMENT OF INCOME AND TAX FILING STATUS—TWO-YEAR PROCESS

The following information, which my agency will use in calculating the RITA to which I am entitled, was shown on the Federal, state and local income tax returns that I (or my spouse and I) filed for the 20 _____ tax year.

Federal Filing status:

- Single
- Married Filing Jointly
- Married Filing Separately
- Head of Household
- Qualifying Widow(er)

Taxable income as shown on my (our) IRS Form 1040: \$ _____

State you are moving out of: _____

Filing status for the state moving out of: _____

Marginal Tax Rate: _____ %

State you are moving into: _____

Filing status for the state moving into: _____

Marginal Tax Rate: _____ %

Locality you are moving out of: _____

Filing status for the locality moving out of: _____

Marginal Tax Rate: _____ %

Locality you are moving into: _____

Filing status for the locality moving into: _____

Marginal Tax Rate: _____ %

The above information is true and accurate to the best of my (our) knowledge. I (we) agree to notify the appropriate agency official of any significant changes to the above so that appropriate adjustments to the RITA can be made.

Employee’s signature

Date

Spouse’s signature (if filing jointly)

Date

§ 302–17.64 When should I file my “Statement of Income and Tax Filing Status” and RITA claim under the two-year process?

For the two-year process, you should file the “Statement of Income and Tax Filing Status” in Year 2, along with your RITA claim, after you file your income tax return. If your agency pays any taxable expenses covered by the WTA (if any) in more than one year, then you will have to file a new “Statement of Income and Tax Filing Status” each year. Your agency establishes the deadline each year for filing of your Statement.

§ 302–17.65 What happens if I do not file the “Statement of Income and Tax Filing Status” in a timely manner?

The WTA is an advance on your income tax expenses, thus if you don’t file the “Statement of Income and Tax Filing Status” in a timely manner, your

agency will require you to repay the entire amount of the withholding and WTA (if any) that the agency has paid on your behalf.

§ 302–17.66 How do I claim my RITA under the two-year process?

(a) To claim your RITA under the two-year process, you must submit a voucher and attach the “Statement of Income and Tax Filing Status,” as discussed in §§ 302–17.63–302–17.65.

(b) Your voucher must claim a specific amount. However, your agency will calculate your actual RITA after you submit your RITA voucher and your “Statement of Income and Tax Filing Status;” the amount you claim on your voucher does not enter into that calculation. You should perform the RITA calculation for yourself, as a check on your agency’s calculation, but you are not required to put the “right

answer” on the voucher you submit to claim your RITA.

§ 302–17.67 How does my agency calculate my RITA under the two-year process?

(a) Your agency calculates your RITA after receipt of your RITA voucher.

(b) Your RITA is itself taxable income to you. To account for taxes on the RITA, your agency will gross-up your RITA by applying the CMTR to the final amount rather than the reimbursed amount.

(c) Thus, your agency calculates your RITA by multiplying the Combined Marginal Tax Rate (CMTR) (using the state and local tax tables most current at the time of the RITA calculation) by the total of all covered taxable relocation benefits during the applicable Year 1, and then subtracting your WTA(s), if any, from the same Year 1 from that total. That is:

$$RITA = \left(\left(\frac{C}{1-C} \right) \times R \right) - Z$$

Where

C = CMTR

R = Reimbursements, allowances, and direct payments to vendors covered by WTA during Year 1

Z = Total grossed-up WTAs paid during Year 1.

Note to § 302–17.67(c) – If your agency offers you the choice, the WTA is optional to you. If the employee has declined the WTA, enter zero for element Z in the above calculation.

§ 302–17.68 What does my agency do once it has calculated my RITA under the two-year process?

(a) Your RITA is likely to be different from the sum of the WTA(s) paid during Year 1, if any, because the WTA is calculated using a flat rate, established by the IRC, while the RITA is calculated using the CMTR. Therefore:

(1) If the RITA calculation in § 302–17.67 results in a negative value (that is, if your agency's calculation shows that it withheld and reported too much money as income taxes), then your agency will report this result to you and will send you a bill for the difference, to repay the excess amount that it sent to the IRS on your behalf as withheld income taxes. The IRS will credit you for the full amount of withheld taxes, including the excess amount, when you file your income tax return for Year 1; therefore, you must repay the excess amount to your agency within 90 days, or within a time period set by your agency. If you are required to repay an amount in Year 2 that was included as wages on your W–2 in Year 1, you may be entitled to a miscellaneous itemized deduction on your Federal income tax return in Year 2. For more information, see IRS Publication 535, "Business Expenses." If your agency chooses to offer you the choice, then you may want to decline the WTA to avoid this so-called "negative RITA" situation.

(2) If the RITA calculation in § 302–17.67 results in a positive value (that is, if your agency's calculation shows that it did not withhold enough money as income taxes), then your agency will pay your RITA to you before the end of Year 2 and will report it to the IRS as part of your income for that year. Also, after your agency has paid your RITA to you, it will provide a W–2 that shows your RITA as taxable income to you.

(b) At your agency's discretion, you may receive one W–2 that includes all of your taxable relocation expenses, WTA (if any), and RITA (if any), along with your regular payroll wages, or you may receive one W–2 for your regular payroll wages and a separate one for your taxable relocation expenses, WTA, and RITA.

§ 302–17.69 How do I pay taxes on my RITA under the two-year process?

When income taxes are due for Year 2, you must report your RITA, if any, as taxable income on your Federal, state, and local tax returns.

(a) If your relocation process results in only one Year 2, or if the previous year was your last Year 1, your RITA is the only amount that you report as income resulting from your relocation for that Year 2.

(b) If, on the other hand, your relocation process results in more than one Year 2 (if, for example, you incurred relocation expenses during more than one calendar year), then, except for your last Year 2, you will need to report reimbursements, allowances, direct payments to vendors, and WTA(s), if any, for succeeding Year 1's at the same time that you report each Year 2's RITA.

(c) See the table in § 302–17.60 for a graphic explanation of Year 1 and Year 2.

Subpart H—Agency Responsibilities

§ 302–17.100 May we use a relocation services provider to comply with the requirements of this part?

Yes. You may use the services of relocation companies to manage all aspects of relocation, including the RITA computation. Agencies that relocate few employees or do not have the resources to manage the complexity of relocation may find that the use of relocation companies is a practical alternative. As another alternative, agencies with infrequent requirements for relocation or with inadequate internal resources may establish an interagency agreement with one or more other agencies to pool resources to provide this service.

§ 302–17.101 What are our responsibilities with regard to taxes on relocation expenses?

To ensure that all provisions of this Part are fulfilled, you must:

(a) Prepare a relocation travel authorization that includes an estimate of the WTA and RITA, to obligate the funds that will be needed.

(b) Determine, in light of the specific circumstances of each employee relocation, which reimbursements, allowances, and direct payments to vendors are taxable, and which are nontaxable.

(c) Decide whether or not you will allow individual employees and/or categories of employees to choose not to receive the WTA.

(d) Calculate the WTA, and credit the amount of the WTA to the employee at the time of reimbursement.

(e) Prepare the employee's W–2 Form(s) and ensure that it (they) reflect(s) the WTA.

(f) Provide each employee an itemized list of relocation expenses after the end of each calendar year in which you provided an allowance, reimbursement, or direct payment to a vendor.

(g) Establish processes for identifying the relevant Federal, state, and local marginal tax rates and for keeping that information current.

(h) Establish processes for identifying states that treat a reimbursement or direct payment to a vendor as taxable even though it is nontaxable under the Federal IRC, and for keeping that information current.

(i) Calculate the employee's CMTR(s).

(j) Decide whether you will use the one-year or two-year RITA process and whether you will use different processes (that is, one-year or two-year) for different groups of employees within your agency.

(k) Make sure the RITA calculation is done correctly and in a timely manner, whether your policies call for the calculation to be done by you or by a third party.

(l) Make sure that payment of the RITA occurs in a timely manner (this is especially critical for the one-year process).

(m) Develop criteria for accepting and rejecting requests for recalculation of RITA.

(n) Establish a process for recalculating the RITA when the employee's request for recalculation is accepted.

(o) Consult with IRS for clarification of any confusion stemming from taxes on relocation expenses.

§ 302–17.102 What happens if an employee fails to file and/or amend a "Statement of Income and Tax Filing Status" prior to the required date?

(a) If a relocating employee does not file and/or amend a "Statement of Income and Tax Filing Status" prior to the required date, and you are using a one-year RITA process, you are to switch to a two-year RITA process and send a written warning to the employee reminding them of the requirement and informing them that if they do not submit the "Statement of Income and Tax Filing Status," you may declare the entire amount of the WTA forfeited.

(b) If the relocating employee does not file and/or amend a Statement of Income and Tax Filing Status prior to the required date, and you are using a two-year RITA process, you are to send the employee a written warning informing them they have 60 days to file or amend their "Statement of Income

and Tax Filing Status,” or you will declare the WTA that you have already paid on his/her behalf forfeited and due as a debt to the Government.

(c) If the relocating employee chose not to receive the WTA and fails to file a Statement of Income and Tax Filing Status prior to your required date, you are to send the employee a written warning that they have 60 days to file. If the employee still fails to file, you may close your case file and refuse any

later claims for RITA related to this specific relocation.

§ 302-17.103 What are the advantages of choosing a 1-year or a 2-year RITA process?

(a) The one-year process is simpler. It reimburses the employee more quickly, and it eases the administrative burden required to calculate the RITA. Most importantly, the one-year process eliminates the possibility of charging

employees for excess payments to the IRS, the so-called “negative RITA.”

(b) The two-year process provides a somewhat more accurate calculation of the additional taxes the employee incurs because it is based on the employee’s actual Year One taxable income and filing status rather than the taxable income and filing status from the year before.

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